

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

28. IA 2198/2023 Company Appeal/8/2022 IA 2847/2022
IA 3825/2023 IA 627/2024 In C.P. (IB)/1374(MB)2017

CORAM:

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (T)

SHRI KULDIP KUMAR KAREER
HON'BLE MEMBER (J)

**ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 24.04.2024**

NAME OF THE PARTIES: IA 2198/2023 Vineet K Chaudhary Vs.
The Regional Pf Commissioner – I
Company Appeal/8/2022 Mr. T.R.
Sadananda Bhat Vs. Shri C.S. Vineet K
Chaudhary
IA 2847/2022 Mr. T.R. Sadananda
Bhat Vs. Mr. C. S. Vineet K Chaudhary
IA 3825/2023 A.R.Enterprises Vs.
V. Mahesh Liquidator M/S. Nagarjuna
Oil Corporation Ltd
IA 627/2024 Vineet K Chaudhary
Vs. Income Tax Department
IN THE MATTER OF
Kohinoor Crane Service
V/s
Petron Engineering Construction Ltd

Section: 9, 60(5) of Insolvency and Bankruptcy Code, 2016

ORDER

IA No. 2198/2023:- Adv. Sandeep Bajaj, Adv. Rishabh Dua, Adv. Aashish Darne appeared for the Liquidator. List the IA No. 2198/2023 on **18.06.2024** for hearing.

Company Appeal No. 8/2022:- Adv. Kunal Kanungo appeared for the Applicant. Adv. Sandeep Bajaj, Adv. Rishabh Dua, Adv. Aashish Darne appeared for the Liquidator. At the request of the parties, list the matter on **18.06.2024** for hearing.

IA No. 2847/2022:- Adv. Sandeep Bajaj, Adv. Rishabh Dua, Adv. Aashish Darne appeared for the Liquidator. At his request, list the matter on **18.06.2024** for hearing.

IA No. 3825/2023:- Adv. Mrithunjayan appeared for the Applicant. Adv. Sandeep Bajaj, Adv. Rishabh Dua, Adv. Aashish Darne appeared for the Liquidator. Adv. Shuvam Agarwal appeared for Respondent No. 1. At the request of the parties, list the matter on **18.06.2024** for hearing.

IA No. 627/2024:- Adv. Sandeep Bajaj, Adv. Rishabh Dua, Adv. Aashish Darne appeared for the Liquidator. The present application has been filed by the Liquidator seeking permission to challenge the order dated 14.12.2023 passed under Section 271 (1) (c) of the Income Tax Act, 1961 and also the demand notice issued under Section 156 of the Income Tax Act, 1961 by way of filing appropriate proceedings before the Hon'ble High Court or some other appropriate Authority/Court of Law. It has been stated in the application that vide order dated 14.12.2023 passed under Section 271 (1) (c) of the Income Tax Act, 1961, the Respondent has imposed a penalty of Rs. 10,38,28,404/- upon the Corporate Debtor without appreciating the fact that an appeal has already been preferred against the assessment order dated 25.05.2023 before the Commissioner of Income Tax. It is further stated that the penalty notice issued under the provisions of the Income Tax Act will have a huge financial implication upon the Corporate Debtor and, therefore, it is essential and necessary to challenge the order in question which has been passed in a mechanical manner.

Having heard the Counsel for the Liquidator and after going the averments made in the application, we are of the considered view that the order dated 14.12.2023 along with notice of the even date issued under Section 156 of the Income Tax Act, 1961 needs to be challenged to protect the interest of the Corporate Debtor for which permission under Section 33(5) of the IB Code, 2016 has been sought by the Liquidator to initiate the necessary proceedings before an appropriate Court of Law to challenge the aforesaid orders. Therefore, we deem it appropriate to grant the necessary permission to the Liquidator under Section 33(5) of the IB Code, 2016 to challenge the order in question. Accordingly, we allow the application granting permission to the Applicant/Liquidator under Section 33(5) of the IB Code, 2016 to initiate appropriate proceedings as per law. **IA No. 627/2024 is allowed and disposed of** in the aforesaid terms.

Sd/-

ANIL RAJ CHELLAN
Member (Technical)

24.04.2024
Sushil

Sd/-

KULDIP KUMAR KAREER
Member (Judicial)